

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

DOCKET FILE COPY ORIGINAL

RECEIVED

In the Matter of)
)
Replacement of Part 90 by)
Part 88 to Revise the Private)
Land Mobile Radio Services)
and Modify the Policies)
Governing Them)
)
and) PR Docket No. 92-235
)
Examination of Exclusivity)
and Frequency Assignment)
Policies of the Private)
Land Mobile Radio Services)

JOINT PETITION FOR PARTIAL RECONSIDERATION

The International Municipal Signal Association ("IMSA"), the International Association of Fire Chiefs, Inc. ("IAFC"), the American Association of State Highway and Transportation Officials ("AASHTO") and the Forestry-Conservation Communications Association ("FCCA") respectfully submit this Petition seeking partial reconsideration of the Commission's Memorandum Opinion and Order in the above-captioned proceeding.^{1/} This Petition addresses the premature reclassification of the low power offset channels in the Fire, Highway Maintenance and

^{1/} Memorandum Opinion and Order, 62 Fed. Reg. 2027 (January 15, 1997) (MO&O).

No. of Copies rec'd
List ABCDE

0+4

Forestry-Conservation Services to the Local Government Service.

I. Introductory Statement

IAFC is a voluntary, professional membership society. Its approximately 10,000 members comprised of senior Fire Service officials are dedicated to the protection of life and property throughout the United States and abroad. IAFC is the major national professional association representing the interests of senior management in the Fire Service. The Fire Service throughout the United States is the principal provider of first responder emergency medical services.

IMSA is a non-profit organization dedicated to the development and use of electrical signaling and communications systems in the furtherance of public safety. IMSA members include representatives of federal, state, county, city, township and borough governmental bodies, and representatives of governmental bodies from foreign nations. Organized in 1896, IMSA is the oldest organization in the world dedicated to the activities pertaining to electrical engineering, including the Public Safety use of radio technology.

IAFC and IMSA are recognized as the frequency coordinating committee for the Fire Radio Service and the Emergency Medical Radio Service ("EMRS") and, in conjunction

with the Personal Communications Industry Association ("PCIA"), constitute the recognized coordinating committee for the Special Emergency Radio Service ("SERS").

AASHTO is the national association of the state departments of highways and transportation in the 50 states, the District of Columbia and Puerto Rico. Its scope includes all five principal transportation modes, and its major purpose is to foster the development, operation and maintenance of an integrated national transportation system.

AASHTO, through its Special Committee on Communications, has been involved in matters related to radio frequency communications and associated systems for more than 40 years. AASHTO serves as the Commission's certified frequency coordinator for the Highway Maintenance Radio Service. AASHTO is an active member of the Intelligent Transportation Society of America ("ITSA") with membership on many ITSA committees, including the ITSA Telecommunications Committee.

FCCA is the FCC certified frequency coordinator for the Forestry Conservation Radio Service. FCCA represents its parent organizations, the National Association of State Foresters ("NASF") and the International Association of Fish and Wildlife Agencies ("IAFWA"), on matters related to radio communications before the FCC and other regulatory agencies. The members of NASF and IAFWA provide a full range of public

safety related services, including fire protection, law enforcement and emergency medical services over wide areas of state owned and/or protected lands.

II. Discussion

In the Refarming Report and Order, the Commission revised Section 90.267 of the rules with respect to low-power offset channels in the 450-470 MHz band by making them regularly assignable channels.^{2/} The Commission created three new narrowband channels at frequencies above each existing wideband assignment and placed the same limitations on these narrowband channels as the channel immediately below them in frequency.^{3/} The FCC in ¶ 60 of its R&O states, "where an existing channel is shared by two or more radio services, the interleaved channels will be shared among those same services."^{4/}

The Commission now publishes in Appendix B of its MO&O frequency allocation tables which reflect the disposition of

^{2/} Report and Order and Further Notice of Proposed Rule Making, PR Docket No. 92-235, 10 FCC Rcd 10076, para. 63 (1995) (R&O).

^{3/} R&O at para. 60.

^{4/} *Id.*

low power offset frequencies.^{5/} These tables identify reallocation of low power offset frequencies formerly assigned to the Fire, Highway Maintenance and Forestry-Conservation Services to the Local Government Service. Joint Petitioners respectfully submit that reallocation of the subject channels at this time is inconsistent with the FCC's position in ¶ 60 of the *R&O* that currently shared channels will be shared among those same services after refarming,^{6/} and with the *R&O* and the *MO&O* which both state that frequency pool consolidation is being deferred to a later date. Furthermore, reclassification of the channels to the Local Government Service at this time will serve to disenfranchise a significant number of Fire and Forestry-Conservation licensees.

The redesignation of the low power offset channels as shown in Appendix B clearly is inconsistent with the FCC's stated desire to consider issues of consolidation and coordination in a forthcoming order.^{7/} By reallocating to the Local Government Service the large number of low power offset frequencies formerly assigned to the Fire, Highway

^{5/} *MO&O*, Appendix B.

^{6/} *R&O* at para. 60. There is an internal conflict in the *R&O* between the disposition of shared full power and shared low power offset channels in the 421-512 MHz band.

^{7/} *MO&O* at para. 98; *R&O* at para. 52.

Maintenance and Forestry-Conservation Services, the Commission has in effect begun the consolidation of the radio services. This adversely both affects the ability of the users to access these channels and also serves to restrict the coordinators' abilities to recommend suitable channels.

A majority of responsible agencies in the Fire Service, and many licensees in the Forestry-Conservation Service, are volunteer or other non-government agencies. In the Fire Service, 80% of the nation's fire departments are non-government, volunteer companies. In fact, virtually every fire company in West Virginia, Pennsylvania and upstate New York is a volunteer company. Pursuant to Section 90.21(a), these entities may be licensed in the Fire Radio Service with the concurrence of the local governmental authority. A similar situation prevails in the Forestry-Conservation Service under Section 90.25(a), in particular with the use of Forestry-Conservation frequencies for non-governmental entities, such as the Nature Conservancies.

There is no similar provision for non-governmental agencies to be licensed in the Local Government Radio Service. See 45 C.F.R. § 90.17(a). Reclassification thus will preclude non-government responsible agencies in the Fire and Forestry-Conservation Services from obtaining licenses on these former offset channels either for new full

power use when the freeze is lifted on license grants for full power stations, or for new assignments for low power operations on these channels. Certainly, the Commission did not intend to eliminate non-government responsible agencies in the Fire and Forestry-Conservation Services from eligibility for these channels.

Secondly, the reassign would strip from Joint Petitioners the ability to coordinate these channels, either for low power use or as new "refarmed" channels, other than to modify existing licenses. Given the large number of channels involved, this is contrary to the FCC's stated intent to defer service consolidation and related coordination issues to a later date.

The Joint Petitioners do not oppose more efficient use of the spectrum through refarming, however, the Joint Petitioners request the Commission address consolidation and coordination issues before reassigning the low power offset channels formerly shared among the Fire, Highway Maintenance, Forestry-Conservation, Local Government and Police Radio Services.

WHEREFORE, THE PREMISES CONSIDERED, the Joint Petitioners respectfully request that the Commission not

reassign the low power offset frequencies to one service until the Commission has addressed consolidation of radio services and the coordination of these frequencies.

Respectfully submitted,

**INTERNATIONAL ASSOCIATION OF
FIRE CHIEFS, INC.**

**INTERNATIONAL MUNICIPAL SIGNAL
ASSOCIATION**

**AMERICAN ASSOCIATION OF STATE
HIGHWAY AND TRANSPORTATION
OFFICIALS**

**FORESTRY-CONSERVATION
COMMUNICATIONS ASSOCIATION**

By: 

Martin W. Bercovici
Paula Deza
KELLER AND HECKMAN LLP
1001 G Street, N.W.
Suite 500 West
Washington, D.C. 20001
(202) 434-4100

Their Counsel

Dated: February 4, 1997